

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action electronically mailed December 17, 2007. At the time of the Office Action, Claims 1-22 were pending in the Application. Claims 1-22 stand rejected. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 101 Rejections

The Examiner rejects Claims 18-22 under 35 U.S.C. §101 suggesting the claimed invention is directed to non-statutory subject matter. Applicant has made a minor amendment to address the Examiner's concern.

Section 102 Rejections

The Examiner rejects Claims 1-22 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,774,660 issued to Brendel, et al. (hereinafter "*Brendel*"). This rejection is respectfully traversed for the following reasons.

Currently, no reference of record, including *Brendel*, offers an architecture in which "...the loadbalancer tracks *only the IP address at a layer three level* such that the subsequently received packets are loadbalanced *only on a binding between the IP address and the selected gateway...*" Such limitations are provided for in Independent Claim 1, but no reference of record includes such elements.

The Examiner cites portions of *Brendel* (in his §102 analysis) for some of these features. However, at those passages, there is no disclosure of these particular items. Note that such operations significantly reduce overhead, as only the layer-three information is being used to loadbalance.

For at least these reasons, Independent Claim 1 is allowable over any cited reference. The other Independent Claims recite limitations similar, but not identical, to those recited in Independent Claim 1. Therefore, these claims are also allowable, for example, for the same reasons as identified above. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons.

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9

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not correct, the Commissioner is hereby authorized to charge any additional amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214-953-6675.

Respectfully submitted,
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